

1 Ryan E. Hatch (SBN 235577)
HATCH LAW, PC
2 13323 Washington Blvd., Suite 302
Los Angeles, CA 90066
3 Tel: 310-279-5076
Facsimile: 310-693-5328
4 ryan@hatchlaw.com

5 *Attorney for Plaintiff John Hanrahan*

6
7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10

11 JOHN HANRAHAN,

12 Plaintiff,

13 v.

14 HONEY SCIENCE LLC,
15 PAYPAL HOLDINGS, INC.

16 Defendants.
17
18
19
20
21
22
23
24
25
26
27
28

Case No. 2:22-cv-6514

COMPLAINT

DEMAND FOR JURY TRIAL

1 Plaintiff John Hanrahan (“Plaintiff”) by and through his attorney, files this
2 Complaint against defendants Honey Science LLC (“Honey”) and Paypal Holdings,
3 Inc. (“PayPal”) (collectively “Defendants”), alleging as follows:

4 **INTRODUCTORY STATEMENT**

5 1. Plaintiff brings this action seeking injunctive and monetary relief,
6 including for Defendants’ infringement of Plaintiff’s copyright in his Coin Man
7 Character (the “Copyrighted Work”).

8 2. Plaintiff created, designed and published the Copyrighted Work. The
9 Copyrighted Work was first published on the Internet in 2012. As a result, Plaintiff
10 is the owner of all rights in the Copyrighted Work. Since the creation of the
11 Copyrighted Work, Plaintiff has regularly published the Copyrighted Work on
12 websites he controls which have been viewed by millions of unique visitors from the
13 United States and around the world.

14 3. All of the claims asserted herein arise out of and are based on
15 Defendants’ copying, reproduction, distribution and public display of various
16 images that are copied from, derivate of, and substantially similar to Plaintiff’s
17 Copyrighted Work (“Infringing Works”). Plaintiff thereby is suing for copyright
18 infringement under the United States Copyright Act of 1976, as amended (the
19 “Copyright Act”), 17 U.S.C. § 101 et seq.

20 4. Plaintiff seeks all remedies afforded by the Copyright Act, including
21 permanent injunctive relief, Plaintiff’s damages, Defendants’ revenues from
22 Defendants’ infringing conduct, statutory damages, and other monetary relief.

23 **JURISDICTION AND VENUE**

24 5. This Court has jurisdiction over this copyright infringement action
25 pursuant to 28 U.S.C. §§ 1331, and 1338(a).

26 6. Venue is proper in this district as Honey’s principal place of business is
27 in Los Angeles, within this district, and a substantial part of the events or omissions
28

1 giving rise to this claim occurred within this district. Honey is wholly owned by
2 PayPal, which conducts an extensive amount of business within this district.

3 7. Plaintiff is an individual who resides in Sunland, California. Plaintiff
4 owns and operates Glowzap, an online community in which users are able to share,
5 view, and rate content from the Internet.

6 8. Defendant Honey Science LLC is a corporation incorporated in
7 Delaware and has a principal place of business in Los Angeles, California. On
8 information and belief, Honey is an online shopping rewards platform with utilizes
9 browser add-ons and mobile apps to provide discounts and rewards to users.

10 9. On information and belief, Defendant PayPal Holdings, Inc. is a
11 corporation incorporated in Delaware. PayPal is well known, multi-billion dollar
12 online payment system with a heavy presence throughout California and worldwide.

13 **FACTS**

14 10. Plaintiff owns and operates Glowzap, an interactive news and content
15 website in which registered users may share, view and review varied online content.
16 In connection with his business ventures, Plaintiff adds content to and publishes
17 pages hosting information shared by users.

18 11. In or around 2012, Plaintiff created certain original imagery to post
19 online to promote the activities of Glowzap. This included the copyrighted image of
20 a coin containing simulated arms, legs, eyes, nose and mouth. The representation of
21 this image has been repeatedly published online from 2012 to present on
22 www.glowap.com and in marketing materials used by Plaintiff.

23 12. Plaintiff has a background and degrees in graphical design. Based
24 upon this experience, Plaintiff has invested substantially in designing and
25 implementing his Coin Man Character for the Glowzap website. A significant part
26 of the user experience of the Glowzap website includes repeated displays of the
27 Copyrighted Work.

1 13. Plaintiff internally referred to the Copyrighted Work as the “Coin Man”
2 or “Coin Man Character.” The Coin Man Character is protected by U.S. Copyright
3 Registration No. VA 2-183-337, the Certificate of Registration for which is attached
4 hereto as Exhibit A.

5 14. Plaintiff’s Copyrighted Work is often published in a manner in which it
6 is animated in a fashion resembling dancing.

7 15. Plaintiff has retained rights for himself in the Copyrighted Work since
8 its creation.

9 16. On December 19, 2019, Plaintiff obtained federal registration for the
10 Copyrighted Work from the United State Copyright Office, registration number VA
11 2-183-337. This registration is currently valid and enforceable within the United
12 States.

13 17. The Copyrighted Work is wholly original, and Plaintiff is the exclusive
14 owner of all right, title, and interest, including all rights under copyright, in the
15 Copyrighted Work.

16 18. Plaintiff’s business, Glowzap, has enjoyed success as an online
17 aggregator of content pertaining to topics ranging from news to commerce to media
18 to science. This success has led to unique visitors to his company’s websites. These
19 websites have prominently displayed representations of the Copyrighted Work on a
20 consistent basis.

21 19. The Copyrighted Work is of significant value to Plaintiff because it
22 serves as a visual representation of the Plaintiff’s enterprise and as an eye-catching
23 aspect of Plaintiff’s business.

24 20. On information and belief, Honey is a business which utilizes a
25 browser add-on, website and mobile application to allow customers to earn
26 monetary rewards for shopping with certain merchants or to utilized crowd-sourced
27 and original discount codes a merchant websites. The service currently has 17
28

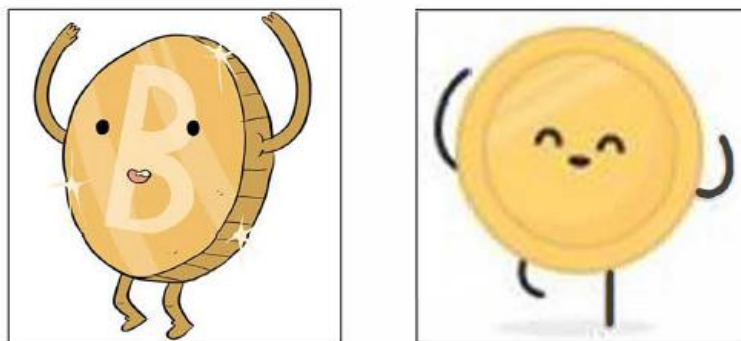
1 million registered users.

2 21. Honey is wholly owned by PayPal based upon a \$4 Billion acquisition
3 deal completed in January 2020. PayPal has continued the use of the Infringing
4 Works, despite actual warning and knowledge from Plaintiff of his objections to
5 their use.

6 22. Honey has utilized a still and animated dancing coin similar to the
7 Copyrighted Work on a continuous basis, continuing to present. This includes on an
8 online pop-up during customer transactions, digital marketing for the company and
9 in other promotional materials.

10 23. Defendants, through one of its agents, contractors and/or employees,
11 accessed and viewed Plaintiff's Copyrighted Work and intentionally copied and
12 made a derivative work of the Copyrighted Work to create the Infringing Works.
13 That Defendants copied the Copyrighted work when they created the Infringing
14 Works is evidenced by the striking similarities between the Copyrighted Work and
15 the Infringing Works which cannot be reasonably explained other than as a result of
16 the copying.

17 24. For the sake of comparison, the images of Plaintiff and Defendants are
18 displayed side by side as follows, with Plaintiff's character on the left and
19 Defendants' character on the right:



27 25. As noted, the images used by Plaintiff and Defendants bear substantial
28

1 similarities in the use of expressive elements. These include but are not limited to:

- 2 a. shapes of the coins;
- 3 b. coloration of the images;
- 4 c. diagonal shine line across eyes;
- 5 d. similar mouth size and placement;
- 6 e. rounded edge to circle;
- 7 f. same leg length ratio

8 The combination of these elements as used by Plaintiff was created in 2012
9 and published online continuously since 2012.

10 26. Defendants copied the Copyrighted Work without Plaintiff's
11 authorization, consent, or knowledge, and without any compensation to Plaintiff.

12 27. Defendants have copied the Copyrighted Work to create the Infringing
13 Works in connection with its vast and repeated marketing efforts of Honey. On
14 information and belief, Defendants have displayed infringing images many millions
15 of times per year in various forms.

16 28. Plaintiff learned of the infringement on September 13, 2019.

17 29. Thereafter, Plaintiff attempted to communicate with principals and
18 agents of Defendants to object to their use of images which infringed upon the
19 Copyrighted Work. Finding no resolution with Defendants, by and through his
20 attorneys, Plaintiff sent a formal cease and desist letter to Defendants on January 8,
21 2020.

22 30. Through various counsel for Defendants, Defendants have expressed an
23 unwillingness to discontinue their usage of infringing images or otherwise
24 compensate Plaintiff its past and ongoing infringing activities.

25 31. As a result of the Defendants' actions, Plaintiff has been directly
26 damaged, and is continuing to be damaged, by the unauthorized reproduction,
27 distribution and public display of the Infringing Works. Defendants have never
28

1 accounted to or otherwise paid Plaintiff for their use of the Copyrighted Work.

2 32. Defendants' acts are causing, and unless restrained, will continue to
3 cause damage and immediate irreparable harm to Plaintiff for which Plaintiff has no
4 adequate remedy at law.

5 **COUNT ONE –COPYRIGHT INFRINGEMENT**

6 **(17 U.S.C. § 501)**

7 33. Plaintiff realleges all preceding paragraphs as if fully set forth herein.

8 34. The Copyrighted Work is an original work of visual art containing
9 copyrightable subject matter for which copyright protection exists under the
10 Copyright Act, 17 U.S.C. § 101, et. seq. Plaintiff is the exclusive owner of rights
11 under copyright in and to the Copyrighted Work.

12 35. Plaintiff owns a valid copyright registration for the Copyrighted Work,
13 attached as Exhibit A.

14 36. Through Defendants' conduct alleged herein, including Defendants'
15 reproduction, distribution, and public display of the Infringing Works which are
16 copied from, derivative of, and substantially similar to Plaintiff's Copyrighted
17 Work, without Plaintiff's permission, Defendants have directly and indirectly
18 infringed Plaintiff's exclusive rights in the Copyrighted Work in violation of Section
19 501 of the Copyright Act, 17 U.S.C. § 501.

20 37. On information and belief, Defendants' infringing conduct alleged
21 herein was, and continues to be, willful and with full knowledge of Plaintiff's rights
22 in the Copyrighted Work, and has enabled Defendants illegally to obtain profit
23 therefrom.

24 38. As a direct and proximate result of Defendants' infringing conduct
25 alleged herein, Plaintiff has been harmed and is entitled to damages in an amount to
26 be proven at trial. Pursuant to 17 U.S.C. § 504(b), Plaintiff is also entitled to
27 recovery of Defendants' profits attributable to Defendants' infringing conduct
28

1 alleged herein, including from any and all sales incorporating or embodying the
 2 infringing works and an accounting of and a constructive trust with respect to such
 3 profits.

4 39. Alternatively, Plaintiff is entitled to the maximum statutory damages
 5 pursuant to 17 U.S.C. § 504(c), for Defendants' infringing conduct for each of
 6 Plaintiff's works that Defendant has infringed, and for such other amount as may be
 7 proper pursuant to 17 U.S.C. § 504(c).

8 40. Plaintiff further is entitled to its attorneys' fees and costs pursuant to 17
 9 U.S.C. § 505.

10 41. As a direct and proximate result of the Defendants' infringing conduct
 11 alleged herein, Plaintiff has sustained and will continue to sustain substantial,
 12 immediate, and irreparable injury, for which there is no adequate remedy at law. On
 13 information and belief, unless Defendants' infringing conduct is enjoined by this
 14 Court, Defendants will continue to infringe the Copyrighted Work. Plaintiff
 15 therefore is entitled to permanent injunctive relief restraining and enjoining
 16 Defendants' ongoing infringing conduct.

17 **COUNT TWO – INDIRECT COPYRIGHT INFRINGEMENT**
 18 **(17 U.S.C. § 501)**

19 42. Plaintiff realleges all preceding paragraphs as if fully set forth herein.

20 43. The Copyrighted Work is an original work of visual art containing
 21 copyrightable subject matter for which copyright protection exists under the
 22 Copyright Act, 17 U.S.C. § 101, et. seq. Plaintiff is the exclusive owner of rights
 23 under copyright in and to the Copyrighted Work.

24 44. Plaintiff owns a valid copyright registration for the Copyrighted Work,
 25 attached as Exhibit A.

26 45. Through Defendants' conduct alleged herein, including Defendants'
 27 reproduction, distribution, and public display of the Infringing Works which are
 28

1 copied from, derivative of, and substantially similar to Plaintiff's Copyrighted
2 Work, without Plaintiff's permission, Defendants have indirectly infringed
3 Plaintiff's exclusive rights in the Copyrighted Work in violation of Section 501 of
4 the Copyright Act, 17 U.S.C. § 501, by committing vicarious and contributory
5 copyright infringement.

6 46. Each defendant knowingly cooperated in the other's infringing conduct
7 and is therefore liable as a contributory and vicarious infringer. For example, on
8 information and belief, Paypal exercises direct control and monitoring over Honey's
9 use of the Coin Man Character, such that Paypal is liable as a contributory infringer.
10 On information and belief, Paypal and Honey also have an apparent or actual
11 partnership such that they have authority to bind one another in transactions with
12 third parties, and exercise joint ownership and control over the infringing Honey
13 products and services.

14 47. Defendants' infringing conduct alleged herein was, and continues to be,
15 willful and with full knowledge of Plaintiff's rights in the Copyrighted Work, and
16 has enabled Defendants illegally to obtain profit therefrom.

17 48. As a direct and proximate result of Defendants' infringing conduct
18 alleged herein, Plaintiff has been harmed and is entitled to damages in an amount to
19 be proven at trial. Pursuant to 17 U.S.C. § 504(b), Plaintiff is also entitled to
20 recovery of Defendants' profits attributable to Defendants' infringing conduct
21 alleged herein, including from any and all sales incorporating or embodying the
22 infringing works and an accounting of and a constructive trust with respect to such
23 profits.

24 49. Alternatively, Plaintiff is entitled to the maximum statutory damages
25 pursuant to 17 U.S.C. § 504(c), for Defendants' infringing conduct for each of
26 Plaintiff's works that Defendant has infringed, and for such other amount as may be
27 proper pursuant to 17 U.S.C. § 504(c).

28

1 50. Plaintiff further is entitled to its attorneys' fees and costs pursuant to 17
2 U.S.C. § 505.

3 51. As a direct and proximate result of the Defendants' infringing conduct
4 alleged herein, Plaintiff has sustained and will continue to sustain substantial,
5 immediate, and irreparable injury, for which there is no adequate remedy at law. On
6 information and belief, unless Defendants' infringing conduct is enjoined by this
7 Court, Defendants will continue to infringe the Copyrighted Work. Plaintiff
8 therefore is entitled to permanent injunctive relief restraining and enjoining
9 Defendants' ongoing infringing conduct.

10 **COUNT THREE – TRADEMARK INFRINGEMENT**

11 **(Lanham Act § 43, 15 U.S.C. § 1125)**

12 52. Plaintiff realleges all preceding paragraphs as if fully set forth herein.

13 53. Plaintiff is the owner of a valid and protectible trademark in the form of
14 the Coin Man Character.

15 54. The Coin Man Character is distinctive and non-functional.

16 55. Defendants infringed the trademark in the Coin Man Character by
17 using in commerce the Infringing Works, which include a coin man mark and trade
18 dress that is similar to Plaintiff's own Coin Man Character, and in a manner that is
19 likely to cause confusion among consumers.

20 56. In addition, each defendant is also liable for secondary infringement.
21 Each defendant knowingly cooperated in the other's infringing conduct and is
22 therefore liable as a contributory and vicarious infringer. For example, on
23 information and belief, Paypal exercises direct control and monitoring over Honey's
24 use of the Coin Man Character, such that Paypal is liable as a contributory infringer.
25 On information and belief, Paypal and Honey have an apparent or actual partnership
26 such that they have authority to bind one another in transactions with third parties,
27 and exercise joint ownership and control over the infringing Honey products and
28

1 services.

2 57. Defendants' infringement has been willful.

3 58. Plaintiff has suffered harm as a result of the trademark infringement, in
4 an amount to be determined at trial.

5 59. Plaintiff seeks injunctive relief, monetary relief in the form of actual
6 damages and Defendants' profits, and attorneys' fees under 15 U.S.C. § 117(a).

7 **COUNT FOUR - TRADE DRESS INFRINGEMENT**

8 **(Lanham Act § 43, 15 U.S.C. § 1125)**

9 60. Plaintiff realleges all preceding paragraphs as if fully set forth herein.

10 61. Plaintiff is the owner of a valid and protectible trade dress in the form
11 of the Coin Man Character.

12 62. The Coin Man Character is distinctive and non-functional.

13 63. Defendants infringed the trade dress in the Coin Man Character by
14 using in commerce the Infringing Works, which include a coin man mark and trade
15 dress that is similar to Plaintiff's own Coin Man Character, and in a manner that is
16 likely to cause confusion among consumers.

17 64. In addition, each defendant is also liable for secondary infringement.
18 Each defendant knowingly cooperated in the other's infringing conduct and is
19 therefore liable as a contributory and vicarious infringer. For example, on
20 information and belief, Paypal exercises direct control and monitoring over Honey's
21 use of the Coin Man Character, such that Paypal is liable as a contributory infringer.
22 On information and belief, Paypal and Honey also have an apparent or actual
23 partnership such that they have authority to bind one another in transactions with
24 third parties, and exercise joint ownership and control over the infringing Honey
25 products and services.

26 65. Defendants' infringement has been willful.

27 66. Plaintiff has suffered harm as a result of the trade dress infringement, in
28

1 an amount to be determined at trial.

2 67. Plaintiff seeks injunctive relief, monetary relief in the form of actual
3 damages and Defendants' profits, and attorneys' fees under 15 U.S.C. § 117(a).

4 **COUNT FIVE – UNFAIR COMPETITION**

5 **(Unfair Competition, Cal. Bus. & Prof. Code, §§ 17200 et seq.)**

6 68. Plaintiff realleges all preceding paragraphs as if fully set forth herein.

7 69. Defendants have committed unlawful, unfair, and fraudulent business
8 acts and practices, in violation of Cal. Bus. & Prof. Code, §§ 17200, et seq.

9 70. As discussed above, Defendants have infringed the copyright,
10 trademark, and trade dress in the Coin Man Character by using in commerce the
11 Infringing Works, which include a coin man image, mark, and trade dress that is
12 similar to Plaintiff's own Coin Man Character.

13 71. Due to Defendants' unlawful, unfair, and fraudulent business acts and
14 practices, Plaintiff has suffered injury in fact and been damaged. Plaintiff is entitled
15 to amounts to be proven at trial, including amounts representing disgorgement of
16 amounts received by Defendants from their wrongful conduct and punitive damages.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff requests judgment against Defendant as follows:

19 1. A judgment that Defendants are liable for copyright infringement under
20 the Copyright Act, Title 17 of the United States Code.

21 2. A judgment that Defendants are liable for contributory and vicarious
22 copyright infringement under the Copyright Act, Title 17 of the United States Code.

23 3. A judgment that Defendants are liable for direct, contributory and
24 vicarious trademark infringement under the Lanham Act § 43, 15 U.S.C. § 1125.

25 4. A judgment that Defendants are liable for direct, contributory and
26 vicarious trade dress infringement under the Lanham Act § 43, 15 U.S.C. § 1125.

27 5. A judgment that Defendants are liable for Unfair Competition, Cal.
28

1 Bus. & Prof. Code, §§ 17200 et seq.

2 6. An injunction permanently enjoining the Defendants, their employees,
3 agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns,
4 and all of those in active concert and participation with any of the foregoing persons
5 and entities who receive actual notice of the Court's order by personal service or
6 otherwise, from:

7 a. distributing, marketing, advertising, promoting, displaying, or
8 authorizing any third party to distribute, market, advertise, promote,
9 or display, the Infringing Works and any products, works, or other
10 materials that include, copy, are derived from, or otherwise embody
11 the Copyrighted Work;

12 b. reproducing, distributing, or publicly displaying] the Copyrighted
13 Work, creating any derivative works based on the Copyrighted Work,
14 or engaging in any activity that infringes Plaintiff's rights in its
15 Copyrighted Work; and

16 c. aiding, assisting, or abetting any other individual or entity in doing
17 any act prohibited by sub-paragraphs (a) or (b).

18 7. That Defendants be ordered to provide an accounting of Defendants'
19 profits attributable to Defendants' infringing conduct, including Defendants' profits
20 from sales of the Infringing Works and any products, works, or other materials that
21 include, copy, are derived from, or otherwise embody the Copyrighted Work.

22 8. That Defendants be ordered to destroy or deliver up for destruction all
23 materials in Defendants' possession, custody, or control used by Defendants in
24 connection with Defendants' infringing conduct, including without limitation all
25 copies of the Infringing Works and any products and works that embody any
26 reproduction or other copy or colorable imitation of the Copyrighted Work, as well
27 as all means for producing them.

28

1 9. That Defendants, at their own expense, be ordered to recall the
2 Infringing Works from any distributors, retailers, vendors, or others that have
3 distributed the Infringing Works on Defendants' behalf, and any products, works or
4 other materials that include, copy, are derived from, or otherwise embody the
5 Infringing Works or the Copyrighted Work, and that Defendant be ordered to
6 destroy or deliver up for destruction all materials returned to it.

7 10. Awarding Plaintiff:

- 8 a. Defendants' revenues from infringement, minus any deductible
9 expenses or elements of profits that Defendants are able to show are
10 not attributable to the infringement;
- 11 b. Any profits obtained as a result of Defendants' infringing conduct,
12 including, but not limited to all profits from sales and other
13 exploitation of the Infringing Works and any products, works, or
14 other materials that include, copy, are derived from, or otherwise
15 embody the Infringing Works or the Copyrighted Work, or in the
16 Court's discretion, such amount as the Court finds to be just and
17 proper;
- 18 c. damages sustained by Plaintiff as a result of Defendants' infringing
19 conduct, in an amount to be proven at trial;
- 20 d. should Plaintiff so elect, statutory damages pursuant to 17 U.S.C. §
21 504(c) instead of actual damages or profits; and
- 22 e. Plaintiff's reasonable attorneys' fees and costs pursuant to 17 U.S.C.
23 § 505.

24 11. Awarding Plaintiff injunctive relief, monetary relief in the form of
25 actual damages and Defendants' profits, and attorneys' fees under 15 U.S.C. §
26 117(a), for Defendants' trademark infringement.

27 12. Awarding Plaintiff injunctive relief, monetary relief in the form of
28

1 actual damages and Defendants' profits, and attorneys' fees under 15 U.S.C. §
2 117(a), for Defendants' trade dress infringement.

3 13. Disgorgement of amounts received by Defendants from their wrongful
4 conduct, and punitive damages, for Defendants' unfair competition.

5 14. Awarding Plaintiff interest, including pre-judgment and post-judgment
6 interest, on the foregoing sums.

7 15. Awarding such other and further relief as the Court deems just and
8 proper.

9 **JURY DEMANDED**

10 Plaintiff demands a trial by jury.

11
12
13 DATED: September 13, 2022

Respectfully submitted,

14 */s/Ryan E. Hatch*

15 Ryan E. Hatch (SBN 235577)
HATCH LAW, PC
13323 Washington Blvd., Suite 302
16 Los Angeles, CA 90066
Tel: 310-279-5076
17 Facsimile: 310-693-5328
ryan@hatchlaw.com

18 *Attorney for Plaintiff John Hanrahan*
19
20
21
22
23
24
25
26
27
28